

# Exhibit 9

**From:** [Rahul Srinivas](#)  
**To:** [Tsekerides, Theodore](#); [Perez, Alfredo](#); [Carlson, Clifford](#); [Calabrese, Christine](#); [Crabtree, Austin](#); [Aquila, Elaina](#); [Delauney, Krystel](#)  
**Cc:** [Greg Wolfe](#); [David Moosmann](#); [Matt Gauthier](#); [Harper, Ashley](#); [Bell, Brandon](#); [Davidson, Tad](#)  
**Subject:** Sphere 3D- Motion to Exclude  
**Date:** Thursday, December 7, 2023 5:18:00 PM

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Counsel:

As we have explained to you in prior correspondence, and as presaged in our briefing opposing your motion for consolidation and to vacate the scheduling order, we intend to file a motion to exclude Debtors' belatedly disclosed damages theories in their amended supplemental interrogatory responses and objections.

Although we do not believe it is necessary to make this offer given that Debtors plainly violated the Court's orders, in lieu of moving to exclude, we are willing to explore a compromise under which Debtors produce discovery on the belatedly disclosed theories on an expedited basis on the following parameters:

- We will serve new RFPs, no more than 10 interrogatories, and no more than 10 RFAs addressed to the new damages theories.
- Debtors will serve responses and objections within seven days.
- We will come to agreement on search terms and custodians within ten days.
- Debtors will search for relevant documents and communications through the present and make a complete production within fourteen days of serving responses and objections.
- Debtors' 30(b)(6) witness on their damages theories will be made available for a deposition thereafter.

Please let us know if you are amenable to this compromise no later than tomorrow. We are available to meet-and-confer on this tomorrow. We are also open to hearing any other compromises you may have in mind.

**Rahul Srinivas\***

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\*Not yet admitted to practice in New York